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April 11, 2005

VIA ELECTRONIC FILING

Honorable Gregory M. Sleet
United States District Judge
J. Caleb Boggs Federal Building
844 N. King Street
Wilmington, DE 19801

Re: *Davis Int'l, LLC v. New Start Group Corp.*, Case No. 04-1482-GMS

Dear Judge Sleet:

The parties submit this joint letter agenda for the discovery dispute teleconference requested by defendants, which is scheduled for 2:00 p.m. on April 13.

Nature & Stage of Proceedings

This case concerns plaintiffs' conversion and RICO claims based upon the purported takeover of Kachkanarsky GOK, a Russian vanadium plant. On November 4, 2004, plaintiffs filed this suit against eleven defendants in the Delaware Chancery Court. It was removed to this Court on November 30, 2004. (D.I. 1).

Following removal, there was a series of correspondence from the parties to the Court. (D.I. 2, Dec. 3, 2004 letter from Karen V. Sullivan, Esq. to Duty Judge; D.I. 9 in 04-1483-GMS, Dec. 8, 2004 letter from Kurt M. Heyman, Esq. to The Honorable Gregory M. Sleet; D.I. 14, Dec. 13, 2004 letter from Charles M. Oberly, III, Esq. to The Honorable Gregory M. Sleet; D.I. 15, Dec. 13, 2004 letter from Joel B. Kleinman, Esq. to The Honorable Gregory M. Sleet; D.I. 25, Dec. 17, 2004 letter from Kurt M. Heyman, Esq. to The Honorable Gregory M. Sleet).

The Court held an initial conference on December 21, 2004. At the initial conference a briefing schedule was agreed upon. As the Court directed, the parties conferred on discovery but reached no agreement.

On February 11, 2005, the parties filed a Stipulation and [Proposed] Order, which was signed by the Court on February 22, memorializing the motion and briefing schedule and consolidating civil action number 04-1483-GMS with 04-1482-GMS. (D.I. 33). On March 8,

2005, plaintiffs made Rule 26(a)(1)(A) and (B) disclosures. Plaintiffs also served interrogatories and requests for production of documents.

On March 31, 2005, defendants filed a motion to dismiss, along with four opening briefs in support thereof. Defendants' motion to dismiss is based on the following legal theories: (i) direct estoppel; (ii) *forum non conveniens*; (iii) comity; and (iv) failure to state a claim. Plaintiffs' deadline to file their answering briefs is June 30, 2005.

Issue Presented

Defendants respectfully request that, pending resolution of defendants' motion to dismiss, the Court (i) stay discovery based upon the direct estoppel effect of the prior dismissal in *Base Metal Trading v. Russian Aluminum*, 253 F. Supp. 2d 681, 710 (S.D.N.Y. 2003), *aff'd*, 98 Fed. Appx. 47 (2d Cir. Apr. 30, 2004), or in the alternative, (ii) limit discovery to expert depositions directed to the grounds for defendants' motion to dismiss as was done in *Base Metal Trading v. Russian Aluminum*, 2002 U.S. Dist. LEXIS 8516 (FM) (S.D.N.Y. May 14, 2002), *aff'd* by Order dated June 24, 2002. Plaintiffs oppose this application and seek responses to plaintiffs' discovery and defendants' Rule 26(a)(1)(A) and (B) disclosures in order to oppose the merits of defendants' motion to dismiss.

Respectfully submitted,

/s/ Charles M. Oberly, III

CHARLES M. OBERLY, III (No. 743)

cc: Dr. Peter T. Dalleo (via electronic filing & hand delivery)
 Bruce S. Marks, Esquire (via facsimile)
 Kurt M. Heyman, Esquire (via hand delivery)
 Patricia L. Enerio, Esquire (via hand delivery)
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 Rodney F. Page, Esquire (via facsimile)
 Michael G. Biggers, Esquire (via facsimile)
 Collin J. Seitz, Jr., Esquire (via hand delivery)
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